

REMARKS

Upon entry of the present amendment, the claims remaining in the application are currently amended claims 1 and 11.

One of the amendments to claims 1 and 11 states that the first and second advertisements are both printed on the shipping/packaging container at the same time. In this connection, specification page 7, lines 9-11, states that the advertisements would be printed on areas of shipping/packaging cartons or other types of containers 1.

The Examiner alleges that the previous claims 1 and 11 are rejected under 35 USC 103(a) as being unpatentable over Shackelford et al US 5,590,781. Applicant respectfully traverses this rejection based on the following, which applies with even greater force to the newly-amended claims 1 and 11.

The Examiner alleges that Shackelford et al discloses a first predetermined area (230) on an outer surface. In contrast, applicant respectfully submits that 230 refers to the entire outer surface of the Shackelford et al device, and not to a predetermined area thereof. Please see Shackelford et al column 7, line 13.

The Examiner alleges that stamps are “a form of advertising” of the United States Postal Service. However, applicant does not claim “a form of advertising”, and furthermore, it is unclear what the Examiner has in mind when he states “a form of advertising”. It is respectfully submitted that something is either an advertisement, or it is not.

Indeed, the Examiner concedes that Shackelford et al does not expressly disclose a first party owning said container, a second party, or a second advertisement.

Moreover, even if applicant were claiming “a form of advertisement” (which applicant does not) rather than an actual “advertisement”, it is respectfully submitted that the reasoning of the Examiner is not valid. In particular, if one were to follow the reasoning of the Examiner, then one might conclude that everything in the universe is “a form of advertising”.

For example, should one conclude that a notice received from the IRS that your tax has been paid is a form of advertising or an advertisement of the Internal Revenue Service?

Should one conclude that a tree is a form of advertising or an advertisement from God?

Should one conclude that a slide-on wire paper clip is a form of advertising or an advertisement of the metal industry, or of the metal bending industry?

Should one conclude that the stamp "PAID" on a copy of your property tax bill is a form of advertising or an advertisement?

Should one conclude that a maintenance fee notice stamped "PAID" is a form of advertising or an advertisement of the USPTO?

Applicant respectfully submits that all of the hypothetical questions posed above should be answered in the negative.

In contrast, applicant respectfully submits that a stamp of the United States Postal Service is in the nature of a stamped or printed paper affixed in evidence that a tax or fee has been paid, and in particular is an adhesive stamp or imprinted stamp for use on mail as evidence of pre-payment of postage, and does not emphasize desirable qualities so as to arouse the desire to buy or patronize.

Also, it is respectfully submitted that a postage stamp is not a second advertisement whose size is determined, at least in part, by the container size, as now specified in currently amended claims 1 and 11.

It is respectfully submitted that the size of stamps produced by the United States Postal Service is substantially uniform, and is not determined by the party owning the container product.

In addition, surely the Examiner will also concede that Shackelford et al. does not disclose or make obvious first and second advertisements which are both printed on the shipping/packaging container at the same time, nor that the second advertisement is provided by the second party to the first party without said first party buying said second advertisement.

The Examiner alleges that the previous claims 1 and 11 are rejected under 35 USC 103(a) as being unpatentable over MacGuire US 2003/0141214 A1. Applicant respectfully traverses this rejection based on the following, which applies with even greater force to the newly-amended claims.

The Examiner concedes that MacGuire lacks or does not expressly disclose that the second predetermined area would otherwise be blank or that the size of the second advertisement is determined, at least in part, by the shipping/packaging container size.

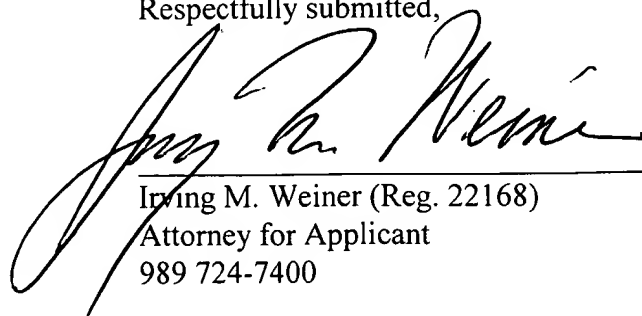
Furthermore, it is clear that MacGuire does not disclose nor make obvious first and second advertisements being both printed on the shipping/packaging container at the same time, nor the second advertisement being provided by the second party to the first party without said first party buying said second advertisement.

In light of the foregoing, and the limitations in currently amended claims 1 and 11, reconsideration and withdrawal of the obviousness rejections are respectfully requested. Applicant respectfully submits that the two currently amended claims are allowable over the prior art of record, and a notice to this effect is earnestly solicited.

If the Examiner is not yet convinced that the application is presently in condition for allowance, it is respectfully requested that the Examiner promptly telephone the undersigned attorney for applicant in an effort to facilitate the prosecution, and/or to narrow the issues for appeal, if necessary.

Favorable reconsideration is respectfully requested.

Respectfully submitted,



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